Nos. 84-677, 84-684, 84-691, 84-696, and 84-869

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In the Supreme Court of the United States

OCTOBER TERM, 1984

AMERICAN WAREHOUSEMEN'S ASSOCIATION, PETITIONER
v.
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, ET AL.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN, AND HELPERS OF AMERICA, PETITIONER
v.
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, ET AL.

INTERNATIONAL ASSOCIATION OF NVOCCs, ET AL., PETITIONERS
v.
NATIONAL LABOR RELATIONS BOARD, ET AL.

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., PETITIONERS
v.
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, ET AL.

HOUFF TRANSFER, INC., PETITIONER
v.
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, ET AL.

ON PETITIONS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD

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No. 84-691

INTERNATIONAL ASSOCIATION OF NVOCCs, ET AL., PETITIONERS

v.

NATIONAL LABOR RELATIONS BOARD, ET AL.

No. 84-696

AMERICAN TRUCKING ASSOCIATIONS, INC., ET AL., PETITIONERS

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We have set forth the background of these cases in our petition in No. 84-861, *NLRB* v. *ILA*, which seeks review

of the same judgment of the court of appeals that is challenged by petitioners. These cases concern the Rules on Containers, which are part of collective bargaining agreements between the International Longshoremen's Association and shipping industry employers. The Rules are designed to deal with the effects of containerization on longshoremen's work. In *NLRB* v. *ILA (ILA I)*, 447 U.S. 490 (1980), this Court vacated two decisions of the National Labor Relations Board that had concluded that the Rules on Containers and their enforcement constitute secondary activity prohibited by Sections 8(b)(4) and 8(e) of the National Labor Relations Act (NLRA), 29 U.S.C. 158(b)(4) and (e). On remand, the Board consolidated those two proceedings with seven other proceedings concerning the Rules on Containers. The Board concluded that the Rules violate the NLRA in their applications to a practice known as shortstopping and to certain traditional warehousing practices. The Board also concluded that the Rules are otherwise lawful. The court of appeals, disagreeing with the Board in part, held that the Rules are lawful in all respects. 734 F.2d 966; Pet. App. 40a-64a.[1]

In No. 84-861, we seek review of the court of appeals' decision insofar as it overturned the Board's ruling. Petitioners in Nos. 84-869 and 84-684 also seek review of this aspect of the court of appeals' decision. Petitioners in Nos. 84-677, 84-691, and 84-696 contend that the Rules violate the National Labor Relations Act in all their applications.

As we explain in our petition, the aspect of the court of appeals' decision that we challenge is inconsistent with the principles of this Court's decision in *ILA I*. See 84-861 Pet. 23-28. But as we also stated in our petition (84-861 Pet. 22,

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[1] "Pet. App." refers to the appendix filed jointly by petitioners in Nos. 84-677, 84-684, 84-691, and 84-696.

28) — and as this Court noted in *ILA I* (447 U.S. at 493; see *id.* at 494-496) — the legality of the Rules in all their applications is a question of great practical significance. The Rules are in effect in every major Atlantic and Gulf port. The Rules determine the extent to which shippers can take advantage of the potentially enormous savings made possible by the growth of containerization, and their enforcement will significantly affect the operation of the land-sea transportation system, the cost of that transportation to shippers and consumers, and the jobs of many of those employed in the industry. Moreover, controversies over the treatment of containers have been a frequent cause of industrial strife in the shipping industry; a definitive resolution of the validity of the Rules will promote stability in the collective bargaining process in the shipping industry. Accordingly, it would be appropriate for the Court to consider the legality of the Rules in their entirety rather than considering only particular applications of the Rules.

It is therefore respectfully submitted that the petitions for a writ of certiorari should be granted.

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